

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES, :
Plaintiff, : **Criminal Action No. 09-788 (SRC)**
v. :
SCOTT RIKER :
Defendant. : **OPINION & ORDER**

CHESLER, District Judge

This matter comes before the Court upon Defendant's motion/application for reduced sentencing dated June 17, 2011 [docket entry no. 15].

Federal Rule of Criminal Procedure 35, which governs the correction or reduction of a sentence, applies to the instant motion. Rule 35(a) permits a court to correct a sentence that resulted from arithmetical, technical or other clear error within 14 days of sentencing. This does not apply here. Rule 35(b) provides that the government may move for a reduction of sentence for substantial assistance provided by the defendant in investigating or prosecuting another person, and likewise does not apply here. Rule 35 does not contemplate the motions for the reduction of a sentence filed by the defendant. Accordingly, Defendant has no standing under Rule 35 to obtain the relief sought.

Likewise, 18 U.S.C. § 3582(c), allowing for modification of an imposed term of imprisonment, is also irrelevant. As a threshold matter, it requires a motion by the Director of the Bureau of Prisons, a condition not met in the instant case. Other requisites include (1) the Sentencing Guidelines Commission having subsequently reduced the sentencing range; or (2) the sentence having been erroneous and Rule 35 is applicable to correct it. As neither of these circumstances are present, this Court lacks jurisdiction over this matter.

For the foregoing reasons, **IT IS** on this 30th day of June 2011,

ORDERED that Defendant's motion/application for reduced sentencing [docket entry no. 15] be and hereby is **DENIED**.

s/ Stanley R. Chesler
Stanley R. Chesler, U.S.D.J